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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT PAPER NUMBER

3711

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/089,246

**Applicant(s)**

FEKETE ET AL.

**Examiner**

Urszula M. Cegielnik

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 17 and 18 are objected to because of the following informalities: Claims 17 and 18 depend from claim 16 that was cancelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9, 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa in view of Fosbenner et al. and Marshall et al. (US Patent No. 5,503,891).

Yonezawa discloses a magnetically guided toy vehicle (A) with a substrate (B) having a guide path (B1), the guide path shaped in a continuous closed loop (see the Figures), and the guide path formed of magnetically attractive material.

Yonezawa does not disclose printing the graphic with ferromagnetic ink over the substrate, the ferromagnetic ink comprising iron powder in an adhesive, and the ratio of the iron powder to adhesive being between about 1:1 and 1.5:1 by weight.

Fosbenner et al. disclose magnetic substrates usable with toy magnetically actuated fluid display devices (col. 1, lines 5-6). The reference teaches printing

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ferromagnetic ink over a substrate and the graphic printed using silk screening techniques (col. 9, lines 36-39). The application of a protective layer over the substrate and graphic is also disclosed (col. 9, lines 61-64). An opaque layer is overlying a major side of a first layer (col. 1, lines 57-60); affixing the substrate to a rigid support (col. 4, lines 8-15); the substrate is paper (col. 4, lines 8-15); the opaque sheet is paper (col. 4, lines 8-15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to print the graphic with ferromagnetic ink over the substrate as taught by Fosbenner et al., since such a modification serves as an alternate means of placing a magnetic attractive material on the substrate.

Marshall et al. disclose the ferromagnetic ink comprising iron powder in an adhesive (col. 2, lines 13-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide ferromagnetic ink comprising iron powder in an adhesive as taught by Marshall et al., since such a modification would permit the ferromagnetic ink to adhere to a substrate.

With regards to the claimed ratio of the iron powder to an adhesive, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the iron powder in an adhesive in the claimed ratio, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable (ratio) ranges involves only routine skill in the art.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 9 above, and further in view of Eppley.

Yonezawa, as modified by Fosbenner et al., lacks the protective layer being a UV coating.

Eppley discloses a process of printing an image on a substrate. The substrate (a simulated eye member) is coated with a UV coating after coloring (col. 3, lines 20-24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a UV coating over a graphic image as taught by Eppley, since such a modification would prevent the graphic image from fading.

Claims 13, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Publication No. GB 876054, hereinafter UK '054 in view of Jaeger (US Patent No. 2,575,055).

UK '054 discloses a magnetically guided traveling toy comprising a body (19); two motor (24) driven wheels (20) at a back end of the body; and a magnetically guided wheel assembly (22) at a front end of the body (19); the wheel assembly including a magnet/wheel holder (27) pivotably coupled to the body (19), the center of the wheel (22, the left and right portions of the wheel) is aligned along the pivot axis; a forward projecting arm (26), a magnet (28) disposed to the underside of the arm (26) at a distal end, and one wheel (22) in a non-offset vertical alignment with the pivot axis of the holder (27). The one wheel (a single wheel of magnetically guided wheel assembly 22) is indeed in a non-offset vertical alignment with the pivot axis of the holder (see Figure 6).

UK '054 does not disclose a front wheel aligned with a pivot axis of a holder such that the front wheel is positioned to contact a playing surface positioned under the toy at a point in line with the pivot axis, the front wheel being positioned within an open expanded portion of a pivot shaft; and a wheel axle extending through the front wheel and two opposed openings in the expanded portion of the pivot shaft.

Jaeger teaches a front wheel (15) aligned with a pivot axis (the pivotable portion encompassing reference part 16) of a holder such that the front wheel (15) is positioned to contact a playing surface (20) positioned under the toy at a point in line with the pivot axis (the pivotable portion encompassing reference part 16), the front wheel (15) being positioned within an open expanded portion (the portion encompassed by reference part 16) of a pivot shaft (13); and a wheel axle (17) extending through the front wheel (15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the abovementioned claimed features as taught by Jaeger, since such a modification would enable the toy vehicle to be

With regard to the two opposed openings in the expanded portion of the pivot shaft, it would have been obvious to provide this feature as a means of securing the axle to the holder.

Claims 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 13 above, and further in view of Chiu (US Patent No. 5,851,134).

UK '054, as modified by Jaeger, lacks a front wheel self steering mechanism coupled with the magnet/wheel holder such that the direction of the front wheel centers

in the line of the forward direction of travel when the toy is lifted off of a playing board surface.

Chiu teaches a toy vehicle having a magnetic steering system that includes a front wheel self-steering mechanism in the form of a biasing spring (col. 2, lines 62-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a front wheel steering mechanism as taught by Chiu, since such a modification would provide a mechanical form of a self-steering mechanism that is simple and would permit centering of the front wheels when magnetic or electric energy is not present.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa in view of Korschen et al.

Yonezawa discloses a magnetically guided toy vehicle (A) with a substrate (B) having a guide path (B1), the guide path shaped in a continuous closed loop (see the Figures), and the guide path formed of magnetically attractive material (ferromagnetic material).

Yonezawa does not disclose the ferromagnetic material being ink comprising up to about 60 weight percent iron powder; the ink comprising between about 50 and about 60 weight percent iron powder, and the iron powder comprising electrolytic iron.

Korschen et al. teach magnetic iron oxide (which is electrolytic) containing granules that comprise 50 to 73 weight percent iron (the range of which 50 to 60 weight percent falls in), and which may be used in toners and printing inks (col. 2, lines 11-14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a ferromagnetic ink having 50 to about 60 weight percent iron as taught by Korschen et al., since Korschen et al. state at col. 1, line 65 and col. 2, line 4, that such a modification would permit good flow properties and good dispersability.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3711



EUGENE KIM  
SUPERVISORY PATENT EXAMINER

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